



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

STEVEN E. NOLAN
7401 S MAIN ST
HOUSTON, TX 77030-4509

Respondent Name

ZURICH AMERICAN INSURANCE CO

Carrier's Austin Representative Box

19

MFDR Tracking Number

M4-12-2681-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "According to the explanation of benefits claims were denied due to the time limit for filing has expired. But we disagree with that decision. We were unaware that patient was covered thru work comp under [sic] we received this notice attached from Private carrier."

Amount in Dispute: \$4,961.36

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The provider did not identify which notice it allegedly received from the 'Private carrier.' In fact, the provider submitted documentation showing that the 'private carrier' reimbursed it. The carrier is unable to determine what information was conveyed in the notice. In addition, the provider submitted no information showing that it reimbursed the private carrier for any money that was already paid to the provider by the 'private carrier.'...In light of the fact that it has not provided a copy of any notice from a 'private carrier' and that it has already been reimbursed for the services in dispute from the 'private carrier,' the provider failed to establish that it meets the requirements of section 408.0272 of the Texas Labor Code. Under these facts, the provider is not excused from submitting its medical bill to the carrier no later than the 95th date after the date of service."

Response Submitted by: Zurich c/o Flahive, Ogden & Latson, P.O. Box 201320, Austin, TX 78720

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 13, 2011 To June 9, 2011	99204, 99213, 29827-RT, 29826-RT, 29823-RT	\$4,961.36	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
3. 28 Texas Administrative Code §102.4 sets out the rules for Non-Commission Communications.
4. 28 Texas Administrative Code §134.204 sets out the guidelines for reimbursement of Workers' Compensation Specific Services provided on or after March 1, 2008.
5. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
6. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
7. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated December 12, 2011

- 200-Per 134.801, A medical bill shall not be submitted later than the 1st day of the 11th month (<08/31/05) or 95 days (> 09/01/05) after DOS.
- 29-The time limit for filing has expired.

Explanation of benefits dated January 27, 2012

- 200-Per 134.801. A medical bill shall not be submitted later than the 1st day of the 11th month (<08/31/05) or 95 days (> 09/01/05) after DOS.
- 29-The time limit for filing has expired.

Issues

1. What is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the requestor forfeit the right to reimbursement for the services in dispute?

Findings

1. 28 Texas Administrative Code §133.20(b) states, in pertinent part, that, except as provided in Texas Labor Code §408.0272, "a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided." The requestor states, "we were unaware that patient was covered thru work comp under [sic] we received this notice attached from Private carrier." Review of the requestor's documentation finds the Explanation of Direct Deposit Activity Report from Cigna Healthcare which indicates that a payment was made for the disputed services by the private carrier. Per Texas Labor §408.0272(c) states, "...a health care provider who erroneously submits a claim for payment to an entity described by Subdivision (1) of that subsection forfeits the provider's right to reimbursement for that claim if the provider fails to submit the claim to the correct workers' compensation insurance carrier within 95 days after the date the provider is notified of the provider's erroneous submission of the claim." Although the requestor's information supports that Texas Labor Code §408.0272 applies to the disputed services, no documentation was found to support as to when the requestor was notified of their erroneous submission of the claim. Therefore, the Division is unable to determine if the bills were submitted to the correct insurance within 95 days after the date the requestor was notified.
2. 28 Texas Administrative Code §102.4(h) states that "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday." Review of the submitted information finds no documentation to support that a medical bill was submitted to the correct carrier within 95 days from the date the requestor was notified of their erroneous submission of the claim. Therefore, pursuant to Texas Labor Code §408.0272, the requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the services in dispute.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	05/25/2012
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.